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Attorneys for Plaintiff,

Justin O. Walker

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JUSTIN O. WALKER, an individual,

Plaintiff,

vs.

ABC FINANCIAL SERVICES INC.,
FIRST CREDIT SERVICES, INC., and
DOES 1-10,

Defendants.

Case No.: '14CV1453 GPC KSC

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

INTRODUCTION

1. This is an action for damages brought by an individual consumer against Defendants for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA"); and the California Rosenthal Act, Civil Code § 1788 *et seq.* ("Rosenthal Act"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices; among others.

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2. Mr. Walker, ("Plaintiff"), through Plaintiff's attorneys, brings the instant lawsuit to challenge the actions of ABC FINANCIAL INC. and FIRST CREDIT SERVICES, INC., ("Defendants"), with regard to attempts by Defendants to unlawfully and abusively collect a debt allegedly owed by Plaintiff for a gym membership, thereby causing Plaintiff damages.
3. Defendants' violations were knowing, willful, and intentional. Defendants did not maintain procedures reasonably adapted to avoid any such violations.
4. Plaintiff makes these allegations on information and belief and on Plaintiff's personal knowledge.

JURISDICTION AND VENUE

5. This Court maintains subject matter jurisdiction arising under 15 U.S.C. §1692k(d) and 28 U.S.C. §§ 1331, 1337. Supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. § 1367.
6. Personal jurisdiction is established because Defendants regularly conduct business within the State of California.
7. Venue is proper pursuant to 28 U.S.C. § 1391.

PARTIES

8. Plaintiff, JUSTIN WALKER, ("Plaintiff"), is a natural person residing in the City of San Diego, County of San Diego, and State of California.
9. Defendant ABC FINANCIAL SERVICES, INC., ("ABC"), is an Arkansas corporation with its principal place of business at 8320 Arkansas 107, Sherwood, Arkansas 72120.
10. Defendant FIRST CREDIT SERVICES, INC., ("FCS"), is a New Jersey corporation with its principal place of business at 371 Hoes Lane, Suite 300B, Piscataway, New Jersey 08854.
11. Plaintiff is obligated or allegedly obligated to pay a debt, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

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- 1 12. Defendants are persons who use an instrumentality of interstate commerce or
2 the mails in a business the principal purpose of which is the collection of debts,
3 or who regularly collects or attempts to collect, directly or indirectly, debts
4 owed or due or asserted to be owed or due another and are therefore debt
5 collectors as that phrase is defined by 15 U.S.C. § 1692a(6).
- 6 13. Plaintiff is a natural person from whom a debt collector sought to collect a
7 consumer debt which was due and owing or alleged to be due and owing from
8 Plaintiff, and is a “debtor” as that term is defined by California Civil Code §
9 1788.2(h).
- 10 14. Defendants, in the ordinary course of business, regularly, on behalf of
11 themselves, or others, engage in debt collection as that term is defined by
12 California Civil Code § 1788.2(b), and are therefore debt collectors as that term
13 is defined by California Civil Code § 1788.2(c).
- 14 15. This case involves money, property or their equivalent, due or owing or alleged
15 to be due or owing from a natural person by reason of a consumer credit
16 transaction. As such, this action arises out of a consumer debt and “consumer
17 credit” as those terms are defined by Cal. Civ. Code § 1788.2(f).

18 **FACTUAL ALLEGATIONS**

- 19 16. At all times relevant, Defendants conducted business within the State of
20 California.
- 21 17. Sometime before October 1, 2013, Plaintiff is alleged to have incurred certain
22 financial obligations related to a gym membership.
- 23 18. These financial obligations were primarily for personal, family or household
24 purposes and are therefore a “debt” as that term is defined by 15 U.S.C.
25 §1692a(5).
- 26 19. Sometime thereafter, but before October 1, 2013, Plaintiff allegedly fell behind
27 in the payments allegedly owed on the alleged debt.

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- 1 20. Subsequently, but before October 1, 2013, the alleged debt was assigned,
2 placed, or otherwise transferred, to Defendants for collection.
- 3 21. On or about October 9, 2013, Defendant ABC mailed a dunning letter to
4 Plaintiff. A few days later, Plaintiff received that letter.
- 5 22. This communication to Plaintiff was a “communication” as that term is defined
6 by 15 U.S.C. § 1692a(2), and an “initial communication” consistent with 15
7 U.S.C. § 1692g(a).
- 8 23. This communication was a “debt collection” as Cal. Civ. Code 1788.2(b)
9 defines that phrase, and an “initial communication” consistent with Cal. Civ.
10 Code § 1812.700(b).
- 11 24. ABC’s October 9, 2013 letter stated a “cancellation fee” of fifty dollars when
12 no such fee was provided for by contract or law.
- 13 25. Through this conduct, Defendant used a false, deceptive, or misleading
14 representation or means in connection with the collection of a debt.
15 Consequently, Defendant violated 15 U.S.C. § 1692e and 15 U.S.C.
16 §1692e(10).
- 17 26. Through this conduct, Defendant made a false representation concerning the
18 character, amount, or legal status of a debt. Consequently, Defendant violated
19 15 U.S.C. § 1692e(2)(A).
- 20 27. Through this conduct, Defendant made a false representation of a service
21 rendered or compensation which may be lawfully received concerning the
22 collection of a debt. Consequently, Defendant violated 15 U.S.C. §
23 1692e(2)(B).
- 24 28. Through this conduct, Defendant was attempting to collect an amount
25 (including any interest, fee, charge, or expense incidental to the principal
26 obligation) when such amount was not expressly authorized by the agreement
27 creating the debt or permitted by law. Consequently, Defendant violated 15
28 U.S.C. § 1692f(1).

1 29. Because this violated certain portions of the federal Fair Debt Collection
2 Practices Act as these portions are incorporated by reference in the Rosenthal
3 Fair Debt Collection Practices Act, through California Civil Code § 1788.17,
4 this conduct or omission violated Cal. Civ. Code § 1788.17.

5 30. In response to ABC's October 9, 2013 letter, on October 11, 2013, Plaintiff sent
6 a letter to ABC stating that Plaintiff disputes the validity of the debt and will not
7 pay it. Plaintiff received confirmation that this letter was received by ABC on
8 October 18, 2013.

9 31. Despite Plaintiff's written notification to ABC that Plaintiff disputes the alleged
10 debt and refused to pay it, ABC continued its collection attempts by contacting
11 Plaintiff via telephone on October 15, 25, and 29, of 2013; and November 4, 18,
12 and 27 of 2013.

13 32. After ABC was notified in writing that Plaintiff refused to pay the alleged debt
14 or wished ABC to cease further communication with the consumer, ABC
15 continued its communications with respect to such debt, for a purpose other
16 than enumerated in 15 U.S.C. § 1692c(c). Consequently, through this conduct,
17 ABC violated 15 U.S.C. § 1692c(c).

18 33. Because this violated certain portions of the federal Fair Debt Collection
19 Practices Act as these portions are incorporated by reference in the Rosenthal
20 Fair Debt Collection Practices Act, through California Civil Code § 1788.17,
21 this conduct or omission violated Cal. Civ. Code § 1788.17.

22 34. On or about December 12, 2013, Defendant FCS mailed a dunning letter to
23 Plaintiff. A few days later, Plaintiff received that letter.

24 35. This communication to Plaintiff was a "communication" as that term is defined
25 by 15 U.S.C. § 1692a(2), and an "initial communication" consistent with 15
26 U.S.C. § 1692g(a).

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- 1 36. This communication was a “debt collection” as Cal. Civ. Code 1788.2(b)
2 defines that phrase, and an “initial communication” consistent with Cal. Civ.
3 Code § 1812.700(b).
- 4 37. Defendant FCS’ December 12, 2013 letter stated that Plaintiff owed a total
5 balance of \$490.00 for his alleged debt related to his gym membership.
- 6 38. Through this conduct, Defendant used a false, deceptive, or misleading
7 representation or means in connection with the collection of a debt.
8 Consequently, Defendant violated 15 U.S.C. § 1692e and 15 U.S.C.
9 §1692e(10).
- 10 39. Through this conduct, Defendant made a false representation concerning the
11 character, amount, or legal status of a debt. Consequently, Defendant violated
12 15 U.S.C. § 1692e(2)(A).
- 13 40. Through this conduct, Defendant made a false representation of a service
14 rendered or compensation which may be lawfully received concerning the
15 collection of a debt. Consequently, Defendant violated 15 U.S.C. §
16 1692e(2)(B).
- 17 41. Through this conduct, Defendant was attempting to collect an amount
18 (including any interest, fee, charge, or expense incidental to the principal
19 obligation) when such amount was not expressly authorized by the agreement
20 creating the debt or permitted by law. Consequently, Defendant violated 15
21 U.S.C. § 1692f(1).
- 22 42. Because this violated certain portions of the federal Fair Debt Collection
23 Practices Act as these portions are incorporated by reference in the Rosenthal
24 Fair Debt Collection Practices Act, through California Civil Code § 1788.17,
25 this conduct or omission violated Cal. Civ. Code § 1788.17.
- 26 43. On or about December of 2013, Plaintiff spoke with Defendant FCS on the
27 telephone. During this call, Plaintiff stated to FCS that Plaintiff disputes the
28 alleged debt, explained that documentation has already been provided that

1 establishes that the debt is invalid, and that he refused to pay it. Despite this,
2 FCS threatened to report the alleged debt on Plaintiff's credit. Plaintiff told FCS
3 not to report it since the debt is invalid, as Plaintiff's documents establish.
4 Despite being informed of this, FCS then reported the debt on Plaintiff's credit
5 report.

6 44. Through this conduct, Defendant communicated or threatened to communicate
7 to a person credit information which was known or which should have been
8 known to be false. Consequently, Defendant violated 15 U.S.C. § 1692e(8).

9 45. Because this violated certain portions of the federal Fair Debt Collection
10 Practices Act as these portions are incorporated by reference in the Rosenthal
11 Fair Debt Collection Practices Act, through California Civil Code § 1788.17,
12 this conduct or omission violated Cal. Civ. Code § 1788.17.

13 46. Despite Plaintiff's notification to FCS that Plaintiff disputes the alleged debt
14 and refused to pay it, FCS continued collection attempts and contacted Plaintiff
15 via telephone on January 24, 2014.

16 47. After FCS was notified that Plaintiff refused to pay the alleged debt, FCS
17 continued its communications with respect to such debt, for a purpose other
18 than enumerated in 15 U.S.C. § 1692c(c). Consequently, through this conduct,
19 FCS violated 15 U.S.C. § 1692c(c).

20 48. Because this violated certain portions of the federal Fair Debt Collection
21 Practices Act as these portions are incorporated by reference in the Rosenthal
22 Fair Debt Collection Practices Act, through California Civil Code § 1788.17,
23 this conduct or omission violated Cal. Civ. Code § 1788.17.

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CLAIMS FOR RELIEF

COUNT I

FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)

15 U.S.C. §§ 1692 ET SEQ.

49. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.
50. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.
51. As a result of each and every violation of the FDCPA, Plaintiff is entitled to any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages from each Defendant in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendants.

COUNT II

**ROSENTHAL FAIR DEBT COLLECTIONS PRACTICES ACT
(ROSENTHAL ACT)**

CAL. CIV. CODE §§ 1788-1788.32

52. Plaintiff repeats, re-alleges, and incorporates by reference, all other Paragraphs.
53. The foregoing acts and omissions constitute numerous and multiple violations of the Rosenthal Act, including but not limited to each and every one of the above-cited provisions of the Rosenthal Act, Cal. Civ. Code §§ 1788-1788.32.
54. As a result of each and every violation of the Rosenthal Act, Plaintiff is entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory damages for a knowing or willful violation in the amount up to \$1,000.00 from each Defendant pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from Defendants.

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PRAYER FOR RELIEF

55. WHEREFORE, Plaintiff prays that judgment be entered against Defendants, and Plaintiff be awarded damages from Defendants, as follows:

- An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
- An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) from each Defendant;
- An award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3);
- An award of actual damages pursuant to Cal. Civ. Code § 1788.30(a);
- An award of statutory damages of \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b) from each Defendant;
- An award of costs of litigation and reasonable attorney's fees, pursuant to Cal. Civ. Code § 1788.30(c).
- Any other relief that the court deems proper.

56. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted,

Dated: June 16, 2014

LAGUARDIA LAW

By: s/Eric A. LaGuardia
ERIC A. LAGUARDIA
Attorneys for Plaintiff,
Justin O. Walker

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Justin O. Walker

(b) County of Residence of First Listed Plaintiff San Diego, CA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Eric LaGuardia, 3245 University Ave, #1
San Diego, CA 92104
Tel: 619-655-4322

DEFENDANTS

ABC Financial Services Inc. and First Credit Services Inc.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known) **'14CV1453 GPC KSC**

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. §§ 1692 et seq.

Brief description of cause:
Debt Collecting in violation of federal and state statutes

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

06/16/2014

SIGNATURE OF ATTORNEY OF RECORD

s/Eric LaGuardia

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.